

12044343249

fundraising processing costs and fees. SCF reported to the FEC making \$118,160.72 in independent expenditures which were solely for those purposes: rental of fundraising donor lists from whom SCF solicited, received and forwarded bundled contributions to the Akin campaign and for the costs of online fundraising by SCF for bundled contributions to the Akin campaign. See SCF's 11/01/2012 Notice to FEC of Independent Expenditures attached to this Response.

Neither Rep. Akin nor any agent or representative of the Akin campaign requested that SCF take *any* actions on Akin's behalf nor were any actions promised (or taken) by SCF for Rep. Akin at his / his campaign's urging or request.

All decisions regarding the endorsement and subsequent fundraising efforts by SCF for the Akin senate candidacy were made independently of the Akin campaign and not at the behest, suggestion or request of the Akin campaign.

There were no communications or interactions between the Akin campaign and SCF that would satisfy the conduct standard of the FEC's regulations governing coordinated public communications, nor was there any public political advertising by SCF regarding Todd Akin.

Further, the Missouri Democratic Party falsely and erroneously alleges that SCF is a 'super PAC'. That is incorrect. SCF is a non-connected PAC that receives and disburses funds solely as a traditional non-connected federal PAC. All contributions to SCF are subject to the federal source prohibitions and limits for PACs that make contributions to candidates. SCF does not operate as an "independent expenditures only PAC" nor does it have an independent expenditures / non-contributions account. All independent expenditures made by SCF are paid with hard dollars, subject to the limits under federal law.

The Missouri Democratic Party complaint admits that no coordinated public communication had occurred before it filed its complaint. The complaint admits that it is based on anticipated or possible actions by SCF. However, SCF did not make expenditures 'anticipated' by the Missouri Democratic Party for political advertisements in support of Akin. In short, the entire premise of the complaint is purely speculative and entirely false.

The Missouri Democratic Party's assertion that Rep. Akin solicited 'soft money' from or through SCF is groundless. SCF does not solicit, receive or spend 'soft money' and no solicitation of 'soft money' occurred at any time by SCF or its agents or representatives.

Legal Authorities

A communication between a candidate and/or his campaign with an entity for the sole purpose of ascertaining the candidate's position on issues is exempt from the 'conduct' prong of the FEC's regulations governing coordinated public communications.

"(f) Safe harbor for responses to inquiries about legislative or policy issues. A candidate's or a political party committee's response to an inquiry about that candidate's or political party committee's positions on legislative or policy issues, but not including a discussion of campaign plans, projects, activities, or

needs, does not satisfy any of the conduct standards in paragraph (d) of this section." 11 C.F.R. §109.21(f).

SCF did not discuss the 'plans, project, activities or needs' of the Akin campaign *with* the campaign or any person on behalf of the campaign. SCF discussed only Rep. Akin's positions on certain policy issues, as part of SCF's standard candidate-vetting process.

SCF has no 'soft money' as it solely raises funds subject to the federal contribution limits and from sources permissible under federal law for entities making contributions to federal candidates.

CONCLUSION

The Missouri Democratic Party complaint was a political stunt, is based on false assertions and speculation as to events that never happened and were not even contemplated.

Accordingly, the complaint should be dismissed.

Respectfully submitted,



Cleta Mitchell, Esq.
Counsel, Senate Conservatives Fund

FOLEY & LARDNER LLP
3000 K Street, NW # 600
Washington, DC 20007
(202) 295-4081
cmitchell@foley.com

Filed this 14th day of November, 2012.

13044343252

EXHIBIT 1

13044343253

EXHIBIT 2

Give Your Eyes a Break
Listen to Your News



NATIONAL JOURNAL
PODCASTS

Welcome Back, | Edit | Sign Out | Membership Home
Sunday, November 11, 2012 | Last Updated: October 21, 2012 01:28 PM

SEARCH

National Journal Membership

Hotline On Call

Hotline's fresh take on national politics

Follow this blog:

SCF May Back Akin; Akin Will Back SCF Earmark Ban

By Dan Friedman and Julie Sobel

September 21, 2012 | 5:28 p.m.

The Senate Conservatives Fund, the former political action committee of Sen. Jim DeMint, R-S.C., turned Super PAC, may help embattled Rep. Todd Akin, R-Mo., raise money for his race against Sen. Claire McCaskill, D-Mo., after imposing one condition: Akin will support an earmark ban the group backs, according to GOP aides involved in the conversations.

"He has agreed to their earmark ban," said Rick Tyler, a senior aide to the Akin campaign who long worked for former House Speaker Newt Gingrich.

That's a shift for a lawmaker who has defended the right of legislators to earmark appropriations on the grounds the Constitution gives Congress the power of the purse.

But even the prospect of support from the group, along with support from DeMint and figures like Gingrich, who is joining Akin at a fundraiser and news conference Monday, and former Arkansas Gov. Mike Huckabee, a vocal Akin booster, could help validate Akin with other conservatives and regain access to a national conservative fundraising. He needs to step up fundraising to compete with the well-funded McCaskill. Tyler said other national groups are considering supporting Akin, but declined to name them.

Akin has struggled to raise money since his August 19 comment that "legitimate rape" rarely causes pregnancy led the National Republican Senatorial Committee and other Republican groups to withdraw financial support.

A Republican close to the Senate Conservatives Fund said the group is "looking at the race carefully and could get involved if it looks like he can win."

The official estimated the organization could raise \$250,000 in contributions for Akin. The official said that decision will come shortly after September 25 -- after which Akin can no longer petition to be removed from the ballot, as national GOP leaders have pressured him to do -- and will be based on public polling and possibly on independent polling by SCF. The official suggested a single digit margin in the race would show Akin is viable enough to support.

"Probably in a week, week and a half, we will look at how the ground has shifted," the official said. If Akin has a shot at winning "down the stretch" in the race, the organization may also consider independent expenditures in Missouri, he said.

Super PAC officials, like Akin campaign aides, argue that once Akin is locked onto the ballot, the dynamic of the race will change. Although Democrats are widely expected to step up negative advertising against Akin after that date, Akin backers hope that once he is indisputably the GOP candidate through November, money and support may return for the pragmatic reason that Republicans will struggle to regain the Senate without competing in Missouri.

"I don't know if Todd Akin can win," the official said. "I know that he hurt himself. I know that the party hurt him very badly ... I think everyone is going to be watching very closely over the next 10 days to see how the race shifts and what else is happening on the map."

DeMint told *The Hill* this week that he would consider helping Akin and that the NRSC should consider doing the same. "I'm certainly looking at the race now Todd's a good conservative; he's been a good representative for a long time. He did make a mistake and said it was a mistake," DeMint said.

While DeMint no longer technically heads Senate Conservatives Fund, due to its conversion in July, he can influence the group's decisions, and the group would be unlikely to back a candidate DeMint did not support. But the group was already considering supporting Akin without public or private encouragement from the senator.

The PAC and the Club for Growth attacked Akin over earmarks during the Missouri GOP primary this summer. SCF spokesperson Matt Hankins called Akin "weak because he's too liberal on spending and earmarks."

National Journal Hotline on Twitter
WHAT LEADERS FOLLOW



HotlineJohn RT @jmartpolitics: That's Kristol, really GOING THERE; this am on FMS: salon.com/2012/11/11/ba... about 1 hour ago · reply · retweet · favorite

Join the conversation

Search This Blog

SEARCH BLOG

But the SCF official said Friday that differences with Akin came down mostly to Akin not realizing that his view that Congress has power to redirect federal funds does not preclude a ban on geographically targeted earmarks.

McCaaskill spokesperson Caitlan Legacki on Friday said Akin's apparent shift contradicts his claims to be a principled candidate. "He's willing to abandon his long-standing beliefs just for money," Legacki said. "What kind of Washington politician ruins an ad defending earmarks in the primary, then two months later, turns around and changes his position on a dime, for a dime? This is exactly the kind of transactional politics that makes people sick."

JOIN THE DISCUSSION

Real-time updating is enabled.

Comments for this page are closed.

Showing 4 comments

Sort by newest first

Archives



Celticreeler

Akin said in a pre-primary debate in late May that he said we should seriously consider repealing the 17th Amendment. That's outside-the-box thinking even for a Republican Senate candidate. Two days (or so) ago he said we should just stop foreign aid to Egypt. That appeals to small-government conservatives who don't want every insult or demonstration to result in another undeclared war, er, "occupation", "kinetic military action", "police action," whatever--American treasure is killed/expended.

I think he's not in the pocket of the Republican party elite. This gives me hope. I'm from Missouri. If he doesn't win this one, I want him to run in the primary against Roy Blunt in 2010.

1 month ago 1 Like

Like



Howisthewrong

Todd Akin is an American patriot that has his country's best interests at heart. This Michiganian would vote for him for my senator if I could.

Please let me encourage you to vote for this man, who I believe will do the right thing in the Senate - he certainly owes the RINOs nothing.

1 month ago in reply to Celticreeler

Like



Jim Kelly

Welcome to the world of Republican politics.

1 month ago

Like



Howisthewrong

Yes, where normal people that think it is perverted for two men to commit lewd acts with one another and where real men think of men who like to flaunt their military service to promote left-wing causes are girly men.

1 month ago in reply to Jim Kelly

Like

[Subscribe by email](#) [RSS](#)

The National Journal Group has the right (but not the obligation) to monitor the comments and to remove any materials it deems inappropriate.
Comments powered by Disqus

Monthly Archives

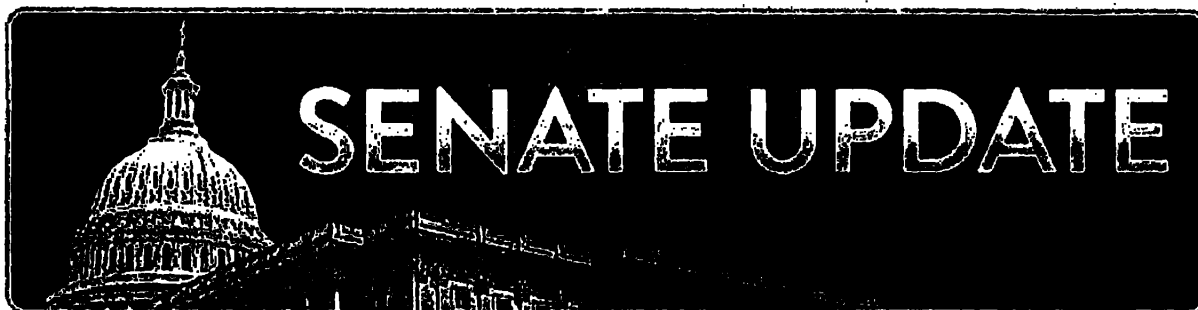
November 2012	October 2012
September 2012	August 2012
July 2012	June 2012
May 2012	April 2012
March 2012	February 2012
January 2012	December 2011
November 2011	October 2011
September 2011	August 2011
July 2011	June 2011
May 2011	April 2011
March 2011	February 2011
January 2011	December 2010
November 2010	October 2010
September 2010	August 2010
July 2010	June 2010
May 2010	April 2010
March 2010	February 2010
January 2010	December 2009
November 2009	October 2009
September 2009	August 2009
July 2009	June 2009
May 2009	April 2009
March 2009	February 2009
January 2009	December 2008
November 2008	October 2008
September 2008	August 2008
July 2008	June 2008
May 2008	April 2008
March 2008	February 2008
January 2008	December 2007
November 2007	October 2007
September 2007	August 2007
July 2007	June 2007
May 2007	April 2007
March 2007	February 2007
January 2007	December 2006
November 2006	October 2006

13044343256

EXHIBIT 3

Akin will face McCaskill in November.

SENATE CONSERVATIVES FUND



Fellow Conservatives:

I'm writing to get your opinion on whether the Senate Conservatives Fund should support Congressman Todd Akin now that he is officially the Republican candidate for U.S. Senate in Missouri and is polling within single digits of his Democratic opponent.

Please read this urgent message and then vote in our online survey.

As you probably know, Congressman Akin won a competitive, three-way Republican primary election in August. We did not endorse a candidate in that race because there were multiple conservatives running who had strong grassroots support. The voters in Missouri chose Todd Akin.



Shortly after Congressman Akin won the primary, he made an unfortunate comment in a news interview. Akin is 100% pro-life and made a mistake in how he explained and defended his position. He quickly apologized.

Within days, national party leaders -- including Governor Mitt Romney -- began to publicly call on him to withdraw from the race. They argued Akin couldn't win the election and had to drop out to help the party win control of the Senate.

The National Republican Senatorial Committee (NRSC) and American Crossroads (co-founded by Karl Rove) announced they would not spend any money helping Akin in Missouri -- a decision that discouraged donors across the country from supporting him.

All of this elevated the controversy and made it even harder for Akin to recover.

The Senate Conservatives Fund has remained neutral, but circumstances have changed in two important ways that require us to take another look.

1. **Todd Akin is now officially the Republican candidate** who will face liberal incumbent Senator Claire McCaskill (D-MO). The deadline has passed for Congressman Akin to remove his name from the ballot so he's the Republican candidate and the outcome of the race could decide control of the Senate.
2. **The race in Missouri appears to still be winnable.** The most recent Rasmussen poll shows Todd Akin trailing McCaskill by just 6 points. Congressman Akin may still be able to win this race even after all of the attacks from the liberal media and the Republican establishment.

So this brings us to the question of what SCF should do and we want to know what you think.

Knowing that Todd Akin will face Claire McCaskill in November and the race could decide control of the Senate, should the Senate Conservatives Fund endorse Akin and help him raise the support he needs to win? [Vote Here](#)

Congressman Todd Akin is one of the strongest conservatives running for the U.S. Senate in the entire country. He opposes government bailouts and supports the full repeal of Obamacare. And Akin has demonstrated the ability to stand up to the leaders in his own party. In fact, he voted against No Child Left Behind and the Medicare Part D entitlement expansion.

Todd Akin has also expressed support for a ban on earmarks, which is one of our top policy goals. He believes Congress should have the power to write spending bills and hold the Executive Branch accountable -- a view we share.

But he also recognizes that legislation written by Congress should address true national priorities, not parochial interests.

The challenge for Akin now is fundraising. Party leaders in Washington have made it clear that they won't help him regardless of how close the race is. This isn't the first time the Republican establishment has attacked and abandoned a conservative nominee, and it probably won't be the last. But we've helped candidates win races without their support before, and we can do it again if we're willing to fight.

That's why we need your feedback today. We need to know if our members are willing to do what it takes to win this race.

Your opinion is very important to us so please vote in our online poll.

Make no mistake, winning won't be easy. Akin has been attacked on all sides and he'll be attacked even more in the coming weeks. But this race could determine control of the Senate, and if Akin wins one thing is for sure -- he won't owe the establishment a thing. We'll have another true conservative in the Senate who is more interested in joining the fight than the club.

Thank you for your continued support. Because of your generosity, we have exceeded our fundraising goals six weeks in a row.

Best regards,



Matt Hoskins
Executive Director
Senate Conservatives Fund



Tweet



Like



Please do not reply to this message. If you have any questions, please [click here](#) to contact us.

Copyright © 2012 Senate Conservatives. All rights reserved.

Contributions to the Senate Conservatives Fund are not deductible as charitable contributions. Contributions from corporations or foreign nationals lacking permanent resident status are not permitted. Federal law requires Senate Conservatives Fund to report the name, mailing address, occupation and employer for each individual whose contributions aggregate in excess of \$200 in a calendar year. Not paid for at taxpayer expense.

PAID FOR BY SENATE CONSERVATIVES FUND
NOT AUTHORIZED BY ANY CANDIDATE OR CANDIDATE'S COMMITTEE
SENATECONSERVATIVES.COM

[Unsubscribe](#) | [Update Profile](#)

13044343261

EXHIBIT 4

SCF members want to defeat Claire McCaskill.

SENATE CONSERVATIVES FUND



Fellow Conservatives:

We have the results of our survey regarding the U.S. Senate race in Missouri. I want to thank everyone who took time to share their views. The results were truly remarkable.

Over 8,000 votes were cast and **93% of you said the Senate Conservatives Fund (SCF) should endorse Todd Akin (R-MO)** given that he's the Republican candidate, the race is competitive, and the outcome could determine control of the Senate.



On the question of how much you would be willing to contribute if SCF backed him, **over \$290,000 was pledged for Todd Akin's campaign** -- a significant amount that could provide a major boost to his campaign.

We've heard you loud and clear so we're going to endorse him today and provide a way for you to immediately swing into action.

If you made a pledge to financially support Todd Akin's campaign to defeat liberal Senator Claire McCaskill (D-MO), now is the time to fulfill that pledge.

Click here to make a secure, online contribution today. As you know, his campaign will receive 100% of your donation.

The stakes in this race could not be higher.

- **Senator Claire McCaskill** cast the deciding vote to pass Obamacare.
- She voted for President Obama's failed stimulus program.
- She voted for the Wall Street bailout, in favor of forced unionism, and to raise the debt limit even higher.
- **Claire McCaskill voted with Obama 98% of the time.**



If McCaskill is re-elected, she will continue to support the massive spending, bailouts, and debt that are destroying our country.

Now she's running a new television ad attacking Todd Akin for supporting limited government.

Conservative leaders like Newt Gingrich, Rick Santorum, and Jim DeMint are lining up behind Todd Akin, but the Republican establishment in Washington still refuses to lift a finger.

That's why the grassroots must rise up and fight back.

Please make a contribution to Todd Akin's campaign today. It doesn't matter how much you contribute, just that you give something.

We've set an initial goal of raising \$100,000 for his campaign before the FEC reporting deadline this Sunday. Time is short so please take action right now.

Thank you for your support and thank you for having the courage to fight for conservative principles.

Best regards,



Matt Hoskins
Executive Director
Senate Conservatives Fund



Tweet



Like

Please do not reply to this message. If you have any questions, please [click here](#) to contact us.

Copyright © 2012 Senate Conservatives, All rights reserved.

Contributions to the Senate Conservatives Fund are not deductible as charitable contributions. Contributions from corporations or foreign nationals lacking permanent resident status are not permitted. Federal law requires Senate Conservatives Fund to report the name, mailing address, occupation and employer for each individual whose contributions aggregate in excess of \$200 in a calendar year. Not paid for at taxpayer expense.

PAID FOR BY SENATE CONSERVATIVES FUND
NOT AUTHORIZED BY ANY CANDIDATE OR CANDIDATE'S COMMITTEE
SENATECONSERVATIVES.COM

[Unsubscribe](#) | [Update Profile](#)

13044343265

EXHIBIT 5

Summary Report

Survey: U.S. Senate | Missouri

1. Knowing that conservative Todd Akin will face liberal Claire McCaskill in November and that the race could decide control of the Senate, should the Senate Conservatives Fund (SCF) endorse Akin and help him raise the support he needs to win?

Value	Count	Percent %	Statistics
Yes	7483	93.0%	Total Responses 8,050
No	430	5.3%	
Undecided	137	1.7%	

2. If SCF endorses Todd Akin, how much would you be willing to contribute to his campaign?

Value	Count	Percent %	Statistics
Nothing	1460	18.1%	Total Responses 8,050
\$25	1846	22.9%	
\$50	978	12.2%	
\$100	777	9.7%	
\$500	97	1.2%	
\$1,000 or more	69	0.9%	
Not Sure	2823	35.1%	

13044343266

13044343267

EXHIBIT 6

24/48 HOUR NOTICE OF INDEPENDENT EXPENDITURES

(SCHEDULE E)

 PAGE 1 OF 8
 FOR SE OF FORM 24/48

NAME OF COMMITTEE (In Full) SENATE CONSERVATIVES FUND		FEC IDENTIFICATION NUMBER C00448698	
Check If <input checked="" type="checkbox"/> 24-hour report <input type="checkbox"/> 48-hour report <input checked="" type="checkbox"/> New report <input type="checkbox"/> Amends report filed on			

Full Name (Last, First, Middle Initial) of Payee ASG Marketing		Date 11 / 01 / 2012	
Mailing Address 1800 Amphitheatre Pkwy		Amount 1854.00	
City Mountain View	State CA	Zip Code 94043	Transaction ID : SE4870
Purpose of Expenditure IE-Akin-Email List Rental		Category/Type 003	Office Sought: <input type="checkbox"/> House <input checked="" type="checkbox"/> Senate <input type="checkbox"/> President State: MO District: 00
Name of Federal Candidate Supported or Opposed by Expenditure: W TODD AKIN		Check One: <input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose	
Calendar Year-To-Date Per Election for Office Sought 118160.72		Disbursement For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General 2012 <input type="checkbox"/> Other (specify)	

Full Name (Last, First, Middle Initial) of Payee ASG Marketing		Date 11 / 01 / 2012	
Mailing Address 1800 Amphitheatre Pkwy		Amount 1854.00	
City Mountain View	State CA	Zip Code 94043	Transaction ID : SE4871
Purpose of Expenditure IE-Allen-Email List Rental		Category/Type 003	Office Sought: <input type="checkbox"/> House <input checked="" type="checkbox"/> Senate <input type="checkbox"/> President State: VA District: 00
Name of Federal Candidate Supported or Opposed by Expenditure: GEORGE ALLEN		Check One: <input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose	
Calendar Year-To-Date Per Election for Office Sought 159653.21		Disbursement For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General 2012 <input type="checkbox"/> Other (specify)	

(a) SUBTOTAL of Itemized Independent Expenditures.....	3708.00
(b) SUBTOTAL of Unitemized Independent Expenditures	
(c) TOTAL Independent Expenditures.....	

Under penalty of perjury I certify that the independent expenditures reported herein were not made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or authorized committee or agent of either, or (if the reporting entity is not a political party committee) any political party committee or its agent.

Lisa Lisker

[Electronically Filed]

Date

11 / 01 / 2012

Signature

13044343268